

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**11 CIV 2220**

-----X  
CORLIES MANOR REALTY, LLC, EXECUTIVE TOWERS  
APARTMENT OWNERS CORP., RIP VAN WINKLE  
HOUSE, LLC, FORBUS HILL PROPERTIES, LLC, EDEN  
ROC, NY, LLC, RIVERVIEW CONDOMINIUM  
ASSOCIATION, POUGHKEEPSIE PROPERTIES, LLC, 360  
MAIN LLC, PRECISION CONTRACTOR OF DUTCHESS,  
INC., RPANYSGROUP LLC, SUNCREST COURT, LLC,  
JON C. BEHREND, KENNETH KARI, KENNETH A.  
LEVINSON,  
individually and on behalf of all other persons similarly  
situated,

Plaintiffs,

-against-

CITY OF POUGHKEEPSIE,

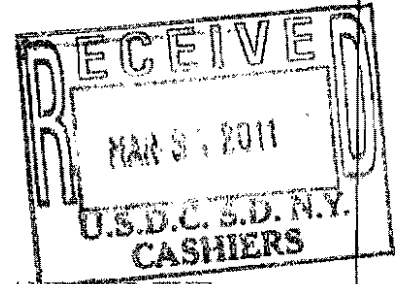
Defendant.  
-----X

DEFENDANT'S  
NOTICE OF REMOVAL TO  
FEDERAL COURT

**JUDGE KARAS**

Case No.:

Assigned Judge:



TO THE CLERK OF THE UNITED STATES DISTRICT COURT IN AND FOR THE  
SOUTHERN DISTRICT OF NEW YORK:

PLEASE TAKE NOTICE that Defendant City of Poughkeepsie hereby removes to this Court the  
above-captioned state court action described below:

1. Defendant City of Poughkeepsie ("Defendant") hereby gives notice that this  
action is removed to the United State District Court for the Southern District of New York at  
White Plains, New York, from the Supreme Court of the State of New York, County of  
Dutchess. Pursuant to 28 U.S.C. § 1441 *et seq.*, Defendant further states as follows:

2. The State Court Action: Defendant is named as the sole defendant in a civil action  
filed in the Supreme Court of the State of New York, County of Dutchess, Index No. 2011-1498,  
titled as set forth in the above caption.

3. Commencement of State Court Action: The state court action was commenced against Defendant upon service of Plaintiffs' summons and complaint on Defendant on March 4, 2011. This Notice of Removal is timely, since it is being filed within thirty (30) days of receipt by Defendant of the summons and complaint. Defendant has not filed pleadings in the state court action.

4. Record in State Court: Plaintiffs' summons and complaint is the only pleading received or filed in the state court action. A copy of the summons and complaint is annexed as Exhibit A.

5. Basis for Federal Court Jurisdiction: Plaintiffs claim that Defendant's local law which regulates, *inter alia*, the manner of payment for and manner of collection of solid waste from properties in the City of Poughkeepsie violates the substantive due process and equal protection clauses of the 14th Amendment to the United States Constitution, and claim that implementation of the local law violates the substantive due process and equal protection clauses of the 14th Amendment of the United States Constitution.

6. Nature and Description of Case: The action seeks to enjoin enforcement of Defendant's local law and compel payment of restitution for the costs and expenses incurred by Plaintiffs as a result of the local law.

7. Applicable Statutes: This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, and the action is removable to this Court pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1446 *et seq.*

8. Concurrent Notice to State Court: Defendant is concurrently filing a copy of this Notice of Removal with the Clerk of the Court for the Supreme Court of the State of New York,

County of Dutchess, Index No. 2011-1498, pursuant to 28 U.S.C. § 1446(d).

Dated: Walden, New York  
March 30, 2011

JACOBOWITZ AND GUBITS, LLP

By: 

J. BENJAMIN GAILEY, ESQ. (JG 2404)

*Attorneys for Defendant*

158 Orange Avenue, P.O. Box 367

Walden, New York 12586-0367

Telephone: 845-778-2121

Facsimile: 845-778-5173

TO: J. SCOTT GREER, ESQ.  
LEWIS & GREER, P.C.  
*Attorneys for Plaintiffs*  
510 Haight Avenue - Suite 202  
P. O. Box 2990  
Poughkeepsie, New York 12603  
Telephone: 845-454-1200